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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Wybe Martin Kast et al.
Serial No. : 08/170,344 Examiner: N. Minnifield
Filed : March 30, 1994
For : PEPTIDES OF HUMAN PAPILLOMA VIRUS FOR USE IN
HUMAN T CELL RESPONSE INDUCING COMPOSITIONS

1185 Avenue of the Americas
New York, NY 10036
May 28, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIR:

**COMMUNICATION REQUESTING
WITHDRAWAL OF FINALITY UNDER 37 C.F.R. §1.129(a)**

This Communication is submitted pursuant to the provisions of 37 C.F.R. §1.129(a) to request withdrawal of the finality of the June 14, 1996 Final Office Action issued by the U.S. Patent and Trademark Office in connection with the above-identified application. Applicants request consideration of the First Submission Under 37 C.F.R. § 1.129(a) and Amendment in Response to June 14, 1996 Final Office Action attached hereto as **Exhibit B**.

The subject application has been pending for at least two years as of June 8, 1995, taking into account reference made to earlier filed applications under 35 U.S.C. §§120, 121, and 365(c).

Under 37 C.F.R. §1.129(a), applicants in an application that has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 U.S.C. §§120, 121 and 365(c), are entitled to have the finality of a final rejection withdrawn and a submission

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entered and considered on the merits twice after final rejection if the submission and the fee set forth in 37 C.F.R. §1.17(r) are filed prior to the filing of an appeal brief and prior to abandonment of the application.

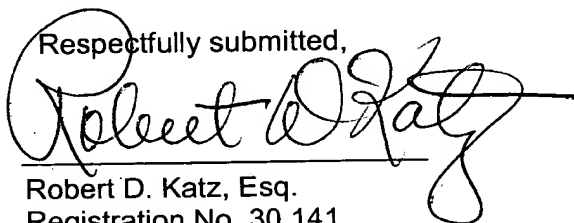
The fee for a large entity under 37 C.F.R. §1.17(r) for consideration and entry of a first submission after a final rejection is SEVEN-HUNDRED AND SEVENTY DOLLARS (\$770.00) and a check for TWO THOUSAND ONE HUNDRED DOLLARS (\$2,100.00) which includes this amount is enclosed.

Applicants respectfully request, pursuant to 37 C.F.R. §1.129(a), to have the finality of the June 14, 1996 Final Office Action withdrawn and to have their first submission entered and considered on the merits in the subject application.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided.

No fee, other than the \$770.00 fee under 37 C.F.R. §1.17(r) is deemed necessary in connection with the filing of this Communication. However, if any additional fee is required, authorization is given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert D. Katz", with a long horizontal flourish extending to the right.

Robert D. Katz, Esq.
Registration No. 30,141
Attorney for Applicants
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036
(212) 278-0400

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : WYBE MARTIN KAST ET AL
Serial No. : 08/170,344 Examiner N. Minnifield
Art Unit 18
Filed : March 30, 1994
For : PEPTIDES OF HUMAN PAPILLOMA VIRUS FOR USE IN
HUMAN T CELL RESPONSE INDUCING COMPOSITIONS

April 5, 1995

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

C O M M U N I C A T I O N

This Communication is supplemental to the amendment mailed to the Patent Office on April 4, 1995 in response to the Office Action dated October 4, 1994. Additionally, this Communication is in compliance with the Examiner's request in the Office Action dated October 4, 1994 to include or provide a concise explanation of the relevance of the references cited in the Information Disclosure Statement which was filed in the above-identified application on January 4, 1994.

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In compliance with the Examiner's request concerning the Information Disclosure Statement, applicants provide the following information.

Concerning International Patent Publication No. WO 92/05248, this publication concerns human papilloma viral protein materials for use in vaccine compositions, more particularly peptides, antibodies and recombinant materials which contain and express a DNA insert of HPV encoding a region of a papilloma protein, such as E6 or E2. This patent publication reference does not identify or disclose applicants' claimed invention and materials.

European Patent No. 0 375 555 discloses peptides and antibodies directed to certain peptides and discloses procedures for the detection of papilloma virus HPV 16. This French language patent publication provides materials, peptides for the detection of certain HPV proteins, such as E6, E7, L1 and L2. Here again, applicants' invention directed to a particular peptide sequence is not disclosed or suggested.

European Patent No. 0 456 197, a German language publication, is directed to epitopes related to HPV 18. This patent publication does not teach or suggest applicants' particular peptide sequences.

The Altmann et al publication reference in the European Journal of Cancer, Vol. 28, NO. 2/3, February 1992, pp. 326-333 is

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directed to materials useful for the immunogenic determination of HPV 16, particularly the nuclear protein E7. This publication deals with T lymphocyte lines and T cell clones of interest in connection with HPV 16, nuclear protein E6. This publication, however, does not disclose the particular polypeptide or peptide sequences disclosed and claimed by applicants.

The Tindle et al publication reference in the Proc. Natl. Acad. Sci. USA, Vol. 88, No. 13, July 1991, pp. 5887-5891 concerns the identification of a major T Cell epitope, amino acids 48-54 of the E7 protein of HPV 16. The particular epitope or peptide sequences disclosed in this publication reference, are not at all the same as or suggestive of applicants' claimed invention.

The Comerford et al publication reference in the Journal of Virology, Vol. 65, No. 9, September 1991, pp. 4681-4690 is concerned with the identification of T- and B-cell epitopes of the E7 protein of HPV 16. The disclosures of this publication reference also does not teach or suggest applicants' peptide sequences.

Finally, the Strauss et al publication reference in Proc. Natl. Acad. Sci. U.S.A., Vol. 89, No. 17, September 1, 1992 pp. 7871-7875 is concerned with the induction of cytotoxic T lymphocytes with peptides and involves the identification of T cell epitopes useful in the detection of HPV. The proteins and peptides

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of this publication are distinct from those disclosed and claimed by applicants.

Respectfully submitted,

I hereby certify that this paper is being deposited this date with the U.S. Postal Service in first class mail addressed to Commissioner of Patents and Trademarks Washington, D.C. 20231

Thomas F. Moran - April 5, 1995
Thomas F. Moran - Date
Reg. No. 16579

Thomas F. Moran
Thomas F. Moran - Reg. No. 16579
Attorney for Applicant(s)
COOPER & DUNHAM LLP
1185 AVENUE OF AMERICAS
NEW YORK, NY 10036
TEL: 212-278-0400

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